DVPT. BANK OF SINGAPORE LTD.

v.

FURNITURE INDUSTRIES PTE. LTD. & ORS.

HIGH COURT MALAYA, JOHOR BAHRU
LC VOHRAH J
[ORIGINATING SUMMONS NO. 24-479 OF 1989]
22 SEPTEMBER 1991

CIVIL PROCEDURE: *Reciprocal enforcement of judgment - Application to set aside judgment registered at Johore Bahru High Court - Issue -Whether plaintiff entitled to further interest when the said interest had not been included in the Singapore Judgment. Order 42 r. 12 (in identical terms except for the amendment in the Singapore rule relating to the CJ's power to vary the rate from time to time).*

This was an application on the part of the third respondent to set aside the order made by this Court on 17 October 1989 pursuant to s. 4 of the Reciprocal Enforcement of Judgments Act 1958 (Revised 1972) registering a judgment obtained in the High Court of the Republic of Singapore.

The one and only ground for the setting aside of the order of this Court for the Singapore judgment to be registered was the provision that was made for the payment of a further interest of 8% per annum from 2 November 1987 to the date of realisation. It was contended that the plaintiff was not entitled to this further interest because it had not been included in the Singapore judgment and that the plaintiff ought to have applied to the Singapore High Court for amendment of its judgment to specifically include this further interest before applying for registration in the Malayan High Court.

Held:

[1] By virtue of O. 42 r. 12 (as amended) of the Rules of the Supreme Court 1970 made by the Rules Committee pursuant to s. 80 of the Supreme Court of Judicature Act (Act 24 of 1969, Singapore statutes) it was provided that the rate of interest applicable in Singapore from 2 November 1987 on a judgment until satisfaction of the judgment debt was 8% per annum. Having regard to this rate and the rate prescribed by our O. 42 r. 12, an order was made for the registration of the Singapore judgment and for the judgment sum to bear interest at 8% per annum from the date immediately following the date of judgment as prayed in the affidavit in support of the application for registration.

[2] This post judgment interest was clearly implied by virtue of the Singapore O. 42 rule 12.

[Third respondent's application dismissed with costs.]

Legislation referred to:

Reciprocal Enforcement of Judgments Act 1958, (Revised 1972), s. 4
Rules of the Supreme Court [Sing], O. 42 r. 12
Supreme Court of Judicature Act [Sing], s. 80

For the plaintiff - Y.L. Song; M/s. Shariff & Som
For the defendant - P. Tan; M/s. Yeo, Tan, Hoon & Tee

JUDGMENT

LC Vohrah J:

This was an application on the part of the third respondent to set aside the order made by this Court on 17 October 1989 pursuant to s. 4 of the Reciprocal Enforcement of Judgments Act 1958 (Revised 1972) registering a judgment obtained in the High Court of the Republic of Singapore.

On 2 November 1987 the applicant obtained judgment against the third defendant in the Singapore High Court in Suit No. 398 of 1987 for S$419,694.81 "together with interest accruing on a daily basis with monthly rests at 5% per annum above the plaintiff's prime rate from 1st January 1987 to date of judgment amounting to RM37,335,35 and RM700 costs". On 4 July 1989 the plaintiff filed this originating summons for the Singapore judgment sum together with the costs to be registered in the equivalent Malaysian RM552,022.57 as a judgment of the High Court in Malaya at Johor Bahru. When the originating summons came up for hearing *ex parte* on 4 October 1989 Counsel for the plaintiff applied for interest at the rate of 8% on this judgment sum with effect from 2 November 1987 on the ground that the plaintiff was entitled to this interest by virtue of Singapore legislation. The matter was then adjourned to 17 October 1989 for Counsel to file an affidavit affording proof of such entitlement. On the adjourned date the required affidavit was furnished wherein an advocate and solicitor of the High Court of the Republic of Singapore deposed that by virtue of O. 42 r. 12 (as amended) of the Rules of the Supreme Court 1970, made by the Rules Committee pursuant to s. 80 of the Supreme Court of Judicature Act (Act 24 of 1969, Singapore Statutes) it was provided that the rate of interest applicable in Singapore from 2 November 1987 on a judgment until satisfaction of the judgment debt was 8% per annum. This averment was supported by copies of the relevant Singapore legislation including O. 42. Having regard to this rate and the rate prescribed by our O. 42 r. 12 (in identical terms except for the amendment in the Singapore rule relating to the Chief Justice's power to vary the rate from time to time) I made an order for the registration of the Singapore judgment and for the judgment sum to bear interest at 8% per annum from the date immediately following the date of judgment as prayed in the affidavit in support of the application for registration as the plaintiff had been kept out of the judgment debt which ought in law to have been paid out to him since that date.

The one and only ground for the setting aside of the order of this Court for the Singapore judgment to be registered was the provision that was made for the payment of the further interest of 8% per annum from 2 November 1987 to the date of realisation. It was the argument of Counsel for the third respondent that the plaintiff was not entitled to this further interest because it had not been included in the Singapore judgment and that the plaintiff ought to have applied to the Singapore High Court for amendment of its judgment to specifically include this further interest before applying for registration in the Malayan High Court.

I found no merit in that argument because this post-judgment interest was clearly implied by virtue of the Singapore O. 42 r. 12. In the event, I dismissed with costs the third respondent's application to set aside the order made on 17 October 1989.

Also found at [1992] 2 CLJ 809